1943

File No. B. Prevention of Prostitution 42

Legal Department

B BRANCH

Subject:— Governor's Bill No. 7 of 1943

A Bill to amend the Bombay Prevention of Prostitution Act, 1923

(Insertion of new Sec. 9 A)

(13/8)

File No. B. Prevention of Prostitution/43

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3 E 43.

Office of the R.L.A.

The requisite draft Bill is appended.

2. The H.D. proposes to insert a new provision as sub-section(5A) in section 9. As the proposed provision is to apply in the City of Bombay only, it will be more appropriate to insert it as new section 9A. The H.D. also omit to notice practical necessity of naming a date -- same date as in the corresponding notice under section 9(1) -- after which the use of the premises for the prohibited purpose is an offence. This has been named in sub-section (2) of section 9A in the revised draft. It is presumed that H.D. do not want offences under the new section 9A to be tried only by stipendiary presidendy Magistrates; vide section 12.

3. The subject-matter of the Bill falls under entries 14 and 37 in the Provincial Legislative List and entry 5 of the Concurrent Legislative List. Section 9A (3) in the Bill appears to be repugnant to the provisions of the Indian Evidence Act, 1872, which is an existing Indian law with respect to entry 5 in the Concurrent List. It would therefore be advisable to reserve the Bill for the consideration of the Governor-General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

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Under executive instructions the Bill also requires the previous concurrence of the Governor-General before enactment.

4. The Statement at page 53 is in order.

Sd/- P.N.M.

2/12.

Remembrancer of Legal Affairs.

U.R.to H.D., No. 9663, dated the 2nd December 1942.

MM

17/7-

Office of the R.L.A.

A revised draft Bill incorporating the amendment now proposed is sent herewith. It should be substituted for the draft Bill sent with R.L.A.'s No. 9663, dated the 2nd December 1942.

2. In view of clause (3) of the revised draft Bill the subject matter of the Bill will fall under extries 2, 14 and 37 of the Provincial Legislative List and entry 5 in the Concurrent Legislative List.

3. The following may be added to the statement at page 53, namely:-

"It is proposed to make the new offences triable by stipendiary Presidency Magistrates only."

Sd/- P.N.M.

28/12.

Remembrancer of Legla Affairs.

U.R.to H.D.,No. 10333 datedthe 28th December 1942.

MM

17/7-

No. 2485

Legal Department,
Bombay Castle, 6th April 1943

From

P.N.Moos, Esquire, Bar-at-Law, I.C.S.,
Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay .

Subject:- A Bill to amend the Bombay Prevention of Prostitution Act, 1923.

Sir,

With reference to your memorandum No. 201(82) dated the 6th February 1943, addressed to the Home Department, on the above subject, I am directed to forward herewith a copy of the Bill to amend the Bombay Prevention of Prostitution Act, 1923, prepared by His Excellency the Governor of Bombay under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a), (b), (c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entries 2, 14 and 37 of the Provincial Legislative List and entry 5 in the Concurrent Legislative List. Section 9A(3) in the Bill appears to be repugnant to the provisions of the Indian Evidence Act, 1872, which is an existing Indian Law withrespect to entry 5 in the Concurrent List. It appears necessary therefore to reserve the Bill for the consideration of the Governor-General with reference to paragraph (2) of the Proclamation and section 107(

Contd.

Act, 1935.

4. I also forward herewith six spare copies of the Bill out of which five copies are for transmission to the Secretary to the Governor General (Public).

Your obedient servant,

Sd/- P.N.M.

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Secretary to Government,
Legal Department.

Through
The Secretary to Government,
Home Department.

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Legal Department.

The Bill to amend the Bombay Prevention of Prostitution Act, 1923, has been forwarded separately through the Home Department to the Secretary to the Governor for obtaining the assent of His Excellency the Governor-General to the Bill.

2. A draft notification under section 92(1) of the Government of India Act, 1935, for applying the proposed Act to the partially excluded areas in this Province is furnished herewith. The notification should be published in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government. Gazette.

Sd/- S. L. C.

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For Secretary to Government.

U.R.to H.D.No. 2582, dated the 9th April 1943.

MM

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NOTIFICATION.

Home Department.

Bombay Castle, April 1943.

No.- In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Prevention of Prostitution (Amendment) Act, 1943 (Bom. of 1943) shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Secretary to Government.

MM

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No. 201(82)
Office of the Governor's Secretary
Government House,
Bombay, 4th May 1943.

From

J.B.Irwin, Esquire, CIE.DSO.MC/ICS/
Secretary to the Governor of Bombay,

To

The Secretary to Government,
Legal Department, Bombay,

The Bombay Prevention of Prostitution,
(Amendment) Bill, 1943.

Sir,

With reference to your letter No. 2485, dated the 6th April 1943, on the above subject I am directed to forward herewith the copy of the Bombay Prevention of Prostitution (Amendment Bill, 1943, with His Excellency the Governor-General's assent signified thereon.

Your Obedient servant,

Sd/-

For Secretary to the Governor of
Bombay.

MM

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Acts.

Publication of the Bombay Prevention of Prostitution (Amendment) Act, 1943.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 3303

Bombay Castle, 6th May 1943.

Letter to the Secretary to the Governor, No.2485, dated the 6th April 1943.

Letter from the Secretary to the Governor, No. 201(82) dated the 4th May 1943.

"With reference to your letter No.2485, dated 6th April 1943, on the above subject, I am directed to forward herewith the copy of the Bombay Prevention of Prostitution (Amendment) Bill, 1943, with His Excellency the Governor-General's assent signified thereon."

RESOLUTION.- The law should be published as Bombay Act No. VII of 1943, in the Bombay Government Gazette dated the 6th May 1943.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

Sd/- S.L.Chaudhari
(P.N.MOOS,
For (Secretary to Government.

Contd.

To

The Manager, Government Central Press, Bombay, (with a copy of the Act and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department).

The Home Department.) With a
*The Oriental Translator to Government.) copy of
The Secretary to the Bombay Legislative Council,) the Act.
The Secretary to the Bombay Legislative Assembly.

*With five extra copies.

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Bombay Act No VII of 1943

~~GOVERNOR'S BILL No. VII OF 1942.~~

~~An Act~~ ~~A Bill~~ to amend the Bombay Prevention of [redacted] Prostitution Act, 1923.

Bom. XI of 1923. WHEREAS it is expedient to amend the Bombay Prevention of Prostitution Act, 1923, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title. 1. This Act may be called the Bombay Prevention of Prostitution (Amendment) Act, 1943.

Insertion of new section 9A in Bom. XI of 1923. 2. After section 9 of the Bombay Prevention of Prostitution Act, 1923, (hereinafter called "the said Act") the following new section shall be inserted, namely:—

Bom. XI of 1923.

Commissioner of Police to serve notice on landlord not to permit house etc. to be used for prostitution. "9A. (*1*) In any case where the Commissioner of Police causes a notice to be served in reference to any house, room or place under sub-section (*1*) of section 9, he may, if he thinks fit, cause a notice to be served on the landlord or lessor or the agent of such landlord or lessor in charge of the said house, room or place, requiring him not to permit the said house, room or place or any other room in the same house to be used for carrying on the business of a common prostitute.

Offence of so permitting after second notice. (*2*) Any person, who having received a second notice under sub-section (*1*) of this section knowingly permits the said house, room or place or any other room in the same house to be used

for carrying on the business of a common prostitute after the date mentioned in the corresponding notice caused to be served in reference to the said house, room or place under sub-section (*1*) of section 9, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Presumption as to knowledge.

(*3*) In all prosecutions under this section, when any house, room or place is proved to have been used for carrying on the business of a common prostitute it shall be presumed that it was knowingly permitted to be so used, unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when the house, room or place was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute."

Amendment of section 12 of Bom. XI of 1923.

3. In section 12 of the said Act for the word and figure "or 8", the figures, letter and word "8 and 9A" shall be substituted.

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STATEMENT.

Under the present Law, no action can be taken against landlords for deliberately allowing their premises to be occupied for purposes of prostitution. The serving of notices on prostitutes under sub-section (*1*) of section 9 of the Bombay Prevention of Prostitution Act, 1923, has merely resulted as a rule in the letting of the premises to a new set of prostitutes every time, thus rendering ineffectual police action aimed at the removal of prostitutes from specific localities. It is, therefore, proposed to amend the Act with a view to make landlords punishable for the repeated and continuous letting out of their premises to prostitutes to enable the Police to clear specific areas effectually. It is proposed to make the new offences triable by stipendiary Presidency Magistrates only.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.